

****NOT FOR PRINTED PUBLICATION****

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
LUFKIN DIVISION

PERSONAL AUDIO, LLC,

Plaintiff,

V.

APPLE, INC.; SIRIUS XM RADIO, INC.;
COBY ELECTRONICS CORP.; and
ARCHOS, INC.,

Defendants.

CIVIL ACTION No. 9:09CV111

JUDGE RON CLARK

ORDER GRANTING MOTION TO EXTEND DISPOSITIVE MOTIONS DEADLINE

Before the court is Defendant Apple, Inc.’s (“Apple”) motion to extend the deadline to file motions for summary judgment in light of the fact that the court has not yet issued its order construing the disputed claim terms of the patents-in-suit [Doc. #219]. Plaintiff Personal Audio, LLC (“Personal Audio”) opposes the motion, arguing that an extension of the deadline is not necessary because Apple may simply argue its invalidity or non-infringement position based on alternative claim constructions. [See Doc. #220 at 2.] Personal Audio also argues that an extension of the dispositive motions deadline is not prudent in light of the approaching March 2011 trial date. [See Doc. #220 at 1-2.]

While it may certainly be possible for Apple to file a summary judgment motion arguing its position under alternative claim constructions, the issues will be streamlined, and thus the parties' and the court's resources will be more efficiently spent, if summary judgment motions are filed after the court's claim construction. Therefore, Apple's Motion to Modify the Deadline

to File Motions for Summary Judgment of Noninfringement and Invalidity [Doc. #219] is hereby **GRANTED**. Any motions for summary judgment shall be filed within two weeks of the court's order construing the disputed claim terms of the patents-in-suit. The parties are reminded that each side is limited to only one summary judgment motion without leave of court. [See Doc. #155.]

So **ORDERED** and **SIGNED** this **22** day of **November, 2010**.

A handwritten signature in black ink, appearing to read "Ron Clark", is positioned above a horizontal line.

Ron Clark, United States District Judge